

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

AMANDA WELLS,

Plaintiff,

v.

CIV 12-00828 WJ/KBM

HI COUNTRY AUTO GROUP d/b/a HI
COUNTRY CHVROLET, a New Mexico
Corporation, and JEFF THOMAS, a natural person

Defendants.

**ORDER DENYING DEFENDANTS' MOTION TO STRIKE
DECLARATION OF FILADELFO CATANIA AS MOOT**

THIS MATTER comes before the Court on Defendants Motion to Strike Declaration of Filadelfo Catania (*Doc. 141*). The motion was fully briefed on October 1, 2013. In their motion, Defendants request that the Court strike the Declaration of Filadelfo Catania (*Doc. 132*) ("Declaration"), as untimely filed with respect to Plaintiff's Motion to Reconvene the Deposition of Vicki Granito (*Doc. 101*) ("Motion to Reconvene"). Plaintiff argues that the Declaration should not be stricken because it does not introduce any new matter into the record, and it is relevant not only to the Motion to Reconvene, but also to Plaintiff's Motion to Amend. *Doc. 152* at 2 – 3.

On September 18, 2013, the Court filed the Order granting in part and denying in part Plaintiff's Motion to Reconvene. *Doc. 146*. The Court did not rely on the Declaration when ruling on that motion. Therefore, the Motion to Strike is denied as moot with respect to the Motion to Reconvene.

The Motion to Amend has not yet been decided by this Court, and a hearing on

the Motion to Amend is scheduled for November 6, 2013. Accordingly, the Court will reserve ruling on the balance of Defendants' Motion to Strike until it has made a determination on the Motion to Amend.

IT IS THEREFORE ORDERED, Defendants' Motion to Strike Declaration of Filadelfo Catania (*Doc. 141*) is **denied** as moot in part as stated herein.

UNITED STATES CHIEF MAGISTRATE JUDGE